

REMARKS

Favorable reconsideration of the application is respectfully requested in light of the amendments and remarks herein.

Upon entry of this amendment, claims 1-2, 4-13, 15-23, and 25-34 will be pending. By this amendment, claims 1, 12, and 22 have been amended, and new claims 33 and 34 have been added.

§103 Rejection of Claims 1 – 2, 4 – 9, 11, 22 – 23, 25 – 30, and 32

On Page 2 of the Office Action, the Examiner has rejected claims 1 – 2, 4 – 9, 11, 22 – 23, 25 – 30, and 32 under 35 U.S.C. §103(a) as being unpatentable over Kutaragi et al. (U.S. Patent 6,122,739; hereinafter referred to as “Kutaragi”) in view of Jones et al. (U.S. Patent 6,363,164 B1; hereinafter referred to as “Jones”). This rejection is respectfully traversed below.

As shown above, claim 1 has been amended and the arguments presented by the Examiner in rejecting claim 1 on pages 2-3 of the Office Action do not appear to apply to amended claim 1. For example, it does not appear that these arguments address how the cited combination of Kutaragi and Jones shows performing two authenticating processes: one to authenticate a recording medium, and one to authenticate a disk playback apparatus. In claim 1, the arbitrary authentication process authenticates a disk playback apparatus by determining whether authentication information is detected in arbitrary positions other than the predetermined position used for absolute authentication. As discussed in the Specification of the present application at pages 11-21 and 31-33, a disk playback apparatus may be compromised by attaching a special device that constantly generating authentication data (and so the disk

playback apparatus should not be authenticated). The arbitrary authentication process can be used to detect that type of special device. For a properly operating disk playback device (i.e., one that does not have such a special device attached), the authentication information will be detected when reading from the predetermined position of the recording medium where the authentication information is recorded. However, the authentication information should not be detected when reading from an arbitrary position other than the predetermined position. If the authentication information is detected when reading from such an arbitrary position, then the authentication information may be coming from some other source, such as an attached special device, and the disk playback apparatus has been compromised. The arbitrary authentication process detects this situation by declaring normal authentication when the authentication is not detected in arbitrary positions other than the predetermined position. In this way, the arbitrary authentication process can be used to authenticate the disk playback apparatus. In contrast, it does not appear that the Examiner's arguments address how the references show this type of authentication. For example, the portions of Jones referenced by the Examiner appear to address authenticating a bill, not the device scanning the bill.

Furthermore, as discussed in the previous amendment, the two authentication processes are performed at different times relative to the execution of the program. The absolute authentication process is performed before executing the program and passing the absolute authentication process allows the program to be executed. The arbitrary authentication process is performed at an arbitrary time while executing the program. It does not appear the Examiner has addressed this time relationship in the Office Action.

Accordingly, it does not appear that the Examiner has established how the cited combination of Kutaragi and Jones, as referenced by the Examiner in rejecting claim 1, shows or

suggests at least these aspects of amended claim 1, and so it is submitted that the Examiner has not established how the cited combination of Kutaragi and Jones shows or suggests amended claim 1 as a whole. Claims 2, 4-9 and 11 depend from claim 1, and it is also submitted that the Examiner has not established how the cited combination of Kutaragi and Jones shows or suggests claims 2, 4-9 and 11, through their dependence on claim 1. Similar arguments apply to claim 22, and so to claims 23, 25-30 and 32 that depend from claim 22.

Based upon the foregoing, it is submitted that claims 1 – 2, 4 – 9, 11, 22 – 23, 25 – 30, and 32 are not anticipated by nor rendered obvious by the teachings of Kutaragi and Jones, as presented and referenced by the Examiner. Accordingly, it is submitted that the Examiner's rejection of claims 1 – 2, 4 – 9, 11, 22 – 23, 25 – 30, and 32 based upon 35 U.S.C. §103(a) has been overcome by the present remarks and withdrawal thereof is respectfully requested.

§103 Rejection of Claims 12, 13, 15, 16, 17, and 21

On Page 9 of the Office Action, the Examiner has rejected claims 12, 13, 15, 16, 17, and 21 under 35 U.S.C. §103(a) as being unpatentable over Timmermans et al. (U.S. Patent 5,737,286; hereinafter referred to as "Timmermans") in view of Jones in further view of Kutaragi. This rejection is respectfully traversed below.

As shown above, claim 12 has been amended and the arguments presented by the Examiner in rejecting claim 12 on pages 9-10 of the Office Action do not appear to apply to amended claim 12. For example, similar to the discussion above with respect to the rejection of claim 1, it does not appear that these arguments address how the cited combination of Timmermans, Kutaragi and Jones shows two authentication means for performing respective authentication processes to authenticate a recording medium and a disk playback apparatus.

Furthermore, as discussed in the previous amendment, the two authentication processes are performed at different times relative to the execution of the program. The absolute authentication process is performed before executing the program and passing the absolute authentication process allows the program to be executed. The arbitrary authentication process is performed at an arbitrary time while executing the program. It does not appear the Examiner has addressed this time relationship in the Office Action.

Accordingly, it does not appear that the Examiner has established how the cited combination of Timmermans, Jones, and Kutaragi, as referenced by the Examiner in rejecting claim 12, shows or suggests at least these aspects of amended claim 12, and so it is submitted that the Examiner has not established how the cited combination of Timmermans, Jones, and Kutaragi shows or suggests amended claim 12 as a whole. Claims 13, 15-17 and 21 depend from claim 12, and it is also submitted that the Examiner has not established how the cited combination of Timmermans, Jones, and Kutaragi shows or suggests claims 13, 15-17 and 21, through their dependence on claim 12.

Based upon the foregoing, it is submitted that claims 12, 13, 15, 16, 17, and 21 are not anticipated by nor rendered obvious by the teachings of Timmermans, Jones, and Kutaragi, as presented and referenced by the Examiner. Accordingly, it is submitted that the Examiner's rejection of claims 12, 13, 15, 16, 17, and 21 based upon 35 U.S.C. §103(a) has been overcome by the present remarks and withdrawal thereof is respectfully requested.

§103 Rejection of Claims 10 and 31

On Page 13 of the Office Action, the Examiner has rejected claims 10 and 31 under 35 U.S.C. §103(a) as being unpatentable over Kutaragi in view of Jones in further view of Timmermans. This rejection is respectfully traversed below.

Claim 10 depends from claim 1. As discussed above, it is submitted that the rejection of claim 1 has been overcome. Therefore, it is respectfully submitted that the rejection of claim 10 has also been overcome through the dependence of claim 10 on claim 1.

Claim 31 depends from claim 22. As discussed above, it is submitted that the rejection of claim 1 has been overcome. Therefore, it is respectfully submitted that the rejection of claim 31 has also been overcome through the dependence of claim 31 on claim 22.

Based upon the foregoing, it is submitted that claims 10 and 31 are not anticipated by nor rendered obvious by the teachings of Kutaragi, Jones, and Timmermans, as presented and referenced by the Examiner. Accordingly, it is submitted that the Examiner's rejection of claims 10 and 31 based upon 35 U.S.C. §103(a) has been overcome by the present remarks and withdrawal thereof is respectfully requested.

§103 Rejection of Claims 18, 19, and 20

On Page 14 of the Office Action, the Examiner has rejected claims 18, 19, and 20 under 35 U.S.C. §103(a) as being unpatentable over Timmermans in view of Jones in further view of Kutaragi. This rejection is respectfully traversed below.

Claims 18-20 depend from claim 12. As discussed above, it is submitted that the rejection of claim 12 has been overcome. Therefore, it is respectfully submitted that the

rejection of claims 18-20 has also been overcome through the dependence of claims 18-20 on claim 12.

Based upon the foregoing, it is submitted that claims 18, 19, and 20 are not anticipated by nor rendered obvious by the teachings of Timmermans, Jones, and Kutaragi, as presented and referenced by the Examiner. Accordingly, it is submitted that the Examiner's rejection of claims 18, 19, and 20 based upon 35 U.S.C. §103(a) has been overcome by the present remarks and withdrawal thereof is respectfully requested.

New claims 33 and 34

New claim 33 calls for a method of authenticating a disk playback apparatus. Were the Examiner's arguments for rejecting claim 1 applied to claim 33, similar to the discussion above with respect to claim 1, it does not appear that those arguments show how the cited references address authenticating the disk playback apparatus, rather than merely authenticating the recording medium. Hence, it does not appear that those arguments would establish how the cited references show or suggest claim 33. A similar argument applies to claim 34.

CONCLUSION

In view of the foregoing, entry of this amendment, and the allowance of this application with claims 1-2, 4-13, 15-23, and 25-34 is respectfully solicited.

In regard to the claims amended herein and throughout the prosecution of this application, it is submitted that these claims, as originally presented, are patentably distinct over the prior art of record, and that these claims were in full compliance with the requirements of 35 U.S.C. §112. Changes to these claims, as presented herein, are not made for the purpose of patentability within the meaning of 35 U.S.C. §§101, 102, 103 or 112. Rather, these changes are made simply for clarification and to round out the scope of protection to which Applicants are entitled.


In the event that additional cooperation in this case may be helpful to complete its prosecution, the Examiner is cordially invited to contact Applicants' representative at the telephone number written below.

The Commissioner is hereby authorized to charge any insufficient fees or credit any overpayment associated with the above-identified application to Deposit Account 50-0320.

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP

By:



Hans R. Mahr, Reg. No. 46,138 for
William S. Frommer
Reg. No. 25,506
(212) 588-0800